

Convergence of Environmental and Economic law in the Sphere of Environmental Protection and Natural Resource Management in Ukraine

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Abstract

The present article analyses the process of convergence of environmental legislations and commercial regulations in context of natural resource management and environment protection. The relevance of the topic is dictated by the issues related to environmental safety that require using available legal remedies to facilitate the transformation of the conventional economy into the green economy. By its green nature, such an economy requires multipurpose legal regulations including (environmental and commercial) principles of regulation, integrated definition, integrated criteria of legal facts, and legal remedies to stimulate greening of economic life. This article highlights several problems that precede the actual convergence of law and legislation. This is, first of all, the convergence of the environmental and economic policy of the State with conceptual and strategic foundations. This will benefit relevant State administration structures calling for administrative restructuring to ensure competent management in the green economy. Correspondingly, proper organization of the law-making process and scientific-legal research is critically required. The article analyses the essential aspects of the convergence of legal remedies for regulation of environmental management. It characterizes main structural components of environmental and economic law that have common features, and delineates the specified links in the course of legal regulation of natural resource management and environment protection.

Keywords

Environmental law; Economic law; Convergence; Natural resources; Environmental management; Environmental impact

Introduction

The modern transformation processes of the society require an adequate political, organizational, economic, and legal response to changes in social-economic and spiritual factors, new development trends. As a result, new legal regulations emerge offering grounds for possible intersections between established branches of law or its convergence. Recently, the issues of systemic relations between the branches of law have become the subject of discourse in legal science. The above mentioned provides grounds for research and re-thinking of some theoretical and practical problems in legal transformations, analysis of prerequisites for these processes, and prospects for further development. This article is devoted to theoretical and practical foundations of convergence of environmental and economic law and legislation, the study of their mutual influence and possible contradictions in the legal regulation of social relations guiding natural management and environmental protection.

Correlation of Economic and Ecological Interests: International Aspect

The development of systemic relations between environmental law and economic law has its logic and prerequisites that underlie the world globalization processes. In particular, the development of the sustainable development concept was the outcome of prevalent ideology of civilization in the 21st century, and it emanated from the UN Conference on Environment and Development (UNCED)¹ held at Rio de Janeiro in 1992. This concept means the balance of economic, environmental, social, humanitarian, and other goals of social development while the process of utilizing the natural resources does not endanger the capability of future generations to satisfy their needs. The Declaration on Environment and Development adopted at this Conference set out the basic principles as the development benchmarks the member States should follow in developing their national policies. It is stated that the world development and environmental protection are interdependent and inseparable; all States and peoples should cooperate to complete the important task of poverty alleviation as a prerequisite for sustainable development and to fulfil needs of most of the world population. To solve the problems effectively, the States should cooperate to establish the favorable and open international economic system that would lead to economic growth and sustainable development in all countries. The national governments should promote the internationalization of environmental costs and use of economic means in order a contaminator to cover contamination related losses while respecting social interests and not violating the international trade and investment norms. Importance of environmental impact assessments before conducting planned activities to minimize the negative impacts on the environment was also highlighted in the UNCED.

It should be noted that the concept of sustainable development was internationally recognized and further developed, gaining paradigmatic significance, through the introduction of 17 Sustainable Development Goals (SDGs) declared in 2015 through the United Nations Resolution “Transforming Our World: the 2030 Agenda for Sustainable Development”². This document confirmed the intention of the world community to ensure sustainable development in its three dimensions - economic, social, and environmental - in a balanced and comprehensive way. In particular, social route is intended to alleviate poverty, eradicate hunger, ensure food security, improve nutrition, and so on. Economic path is aimed at promoting continuous, comprehensive, and sustainable economic growth, creating sustainable infrastructure, promoting comprehensive and sustainable industrialization and innovation. Environmental trajectory seeks to ensure availability and sustainable management of water resources and sanitation, transition to rational patterns of

¹ UN Conference on Environment and Development, 1992. United Nations. Available online at:

https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_CONF.151_26_Vol.I_Declaration.pdf [Accessed 30 on August 2021].

² Transforming Our World: The 2030 Agenda for Sustainable Development: Resolution of the United Nations General Assembly, 2015. United Nations. Available online at: <http://sdg.org.ua/ua/resources-2/344-2030-2015> [Accessed on 30 August 2021].

consumption and production, protection and restoration of marine and terrestrial ecosystems, combating climate change, and alike. It was stipulated that each State could have different approaches, strategies, models, and instruments available to ensure sustainable development considering its national conditions and priorities.

The international legal approaches to form sustainable development components (in harmonious combination of social, economic, and ecological interests) have been reflected in environmental policy of Ukraine. It should be pointed out that the Association Agreement³ between Ukraine and the European Union, the European Atomic Energy Community, and their member States plays an important role in the formation of strategic development benchmarks for Ukraine. The Association Agreement provides for developing and strengthening the cooperation on political, socio-economic, as well as environmental fronts. In particular, Ukraine undertook to implement 29 EU directives and regulations on environment protection. It is expected to facilitate the implementation of long-term goals of sustainable development and green economy by preserving natural resources, improving economic and nature-preservation performance, integrating environmental policy into other spheres of the State policy, and increasing production with the help of modern technology.

Unquestionably, the Association Agreement has become a pointer for the development of the national environmental policy. Its foundations and goals for up to 2020 included ensuring the environmentally balanced use of natural resources. This was seen as a process of interaction between the society and environment that provides for achieving the optimum balance between the economic activity, satisfaction of material and spiritual needs of the population, maintenance of the quality environment and preservation of natural resources for future generations.

According to the political foundations, the sustainable socio-economic development of the State is the way of its complex economic functioning. While the increasing material and spiritual needs of the population are satisfied, at the same time the rational and environmentally safe management and highly effective and balanced use of natural resources are provided, and the favorable conditions for human health, preservation and reproduction of environment and natural-resource potential are created.

Better health of environmental, economic and social components was also considered as a basis for developing the national system of sustainable development goals. Thus, in 2015, the “Sustainable Development Strategy of Ukraine - 2020” was approved. One of its tenets was the improvement of living standards by ensuring sustainable economic growth in an environmentally friendly way and creating the favorable conditions for economic activity. Therefore, overcoming a conflict of economic and ecological interests was recognized as a priority. Later on, the Sustainable Development Goals of Ukraine 2030, approved in 2019, declared the transition to rational patterns of consumption and production, and preservation of natural ecosystems.

The development of legal regulation continued to remain a grey area in accordance with the Foundations (Strategy) of the State Environmental Policy of Ukraine 2030 adopted in 2019. The Strategy substantiates that the root causes of environmental problems in Ukraine are the following: 1) consistency of environmental priorities with the economic reasonability; 2) the prevalence of the resource- and energy-intensive industries supporting the economy having negative environmental impacts, which are considerably strengthened by the inappropriate legislation regulating economic management; and 3) physical and moral depreciation of capital assets in all sectors of the national economy, etc. Similarly,

³ The Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their member states, on the other hand Was held on 27th June 2014. Parliament of Ukraine. Available online at: https://zakon.rada.gov.ua/laws/show/984_011#Text[Accessed on 7 September 2021].

declared goals of the State environmental policy are identified as the following: a) overcoming imbalance existing in the economic, social, and environmental spheres; b) ensuring the condition of the environment that will facilitate the quality of life and well-being of the current and next generations; c) creating the situations facilitating agreements between the authorities, businesses and civil society encompassing the improvement of the quality of life of the citizens and ensuring the socio-economic and environmental stability; and d) encouraging sustainable business and environmentally conscious behavior of the citizens.

To achieve the main goals of the State environmental policy, it is suggested to a) introduce the ‘ecosystem approach’ to all areas of the socio-economic development; b) facilitate sustainable development by introducing the balanced use of natural resources, as well as the preservation and restoration of natural ecosystems; and c) achieve the balance of the development components (economic, environmental, social). In this context, the balance should be maintained in the course of which the economic growth, material production, consumption, as well as other kinds of social activities are in coordination, and all are taking place within the prescribed frameworks created while respecting the ecosystems’ ability to restore, absorbing contaminations and maintaining the proper standards of living of the current and future generations.

The tenets of development are based on the different economic (business, entrepreneurial), environmental (conservational, resource-saving), social (public, civil), and State (national) interests. These interests often overlap or contradict each other in many spheres of social life, especially, in terms of use of natural resources. Public and private interests overlap more precisely. According to Anisimova (2019), the public nature of ecological interests provides for undertaking certain activities for social purposes. Ensuring ecological interests is carried out by adapting society to potential natural and man-made threats, providing the ability to prevent and avert environmental risks, promote the protection and reproduction of the natural resource potential of the country. The current public ecological interests consist mainly of satisfying the environmental needs of the current and next generations, ensuring the balanced economic growth based on the efficient use of natural and other resources; creating the competitive low carbon economy; identifying the environmentally clean energy sources; developing the environmentally clean productions; using the resource- and energy-saving technology; protecting the natural environment; improving the business environment, particularly, for small and medium businesses; minimizing the negative environmental impact caused by consumption and production system in the society (Anisimova, 2019).

Concerning the correlation between public interests and private economic interests, the scientific literature points out that today’s business representatives, especially the large capital, ignore or treat the national interests, including the ecological ones, too unfavorably. This obviously calls for the idea of the social-oriented development of the States into question. Many production companies are still oriented towards the short- and mid-term economic benefits and routinely ignore the conservation component, as well as negative consequences in the distant future. At the same time, the issues of small and medium business interests that, according to some scientists, match the system of national interests in the fullest and most harmonic way are virtually disregarded (Yakubyak, 2012).

According to Saurenko (2012, p.10), the in-depth study of theory and practice of the business entities makes it possible to state that the interest is made up by the dialectical unity of the private (useful, egoistic) and public (ethical, social) parts. Both of these parts of the interest have a single subjective form of implementation, that is, an individual. Hence, both the private and public interests apply the principle of rationality as a natural quality of human nature determined by the phenomenon of resources scarcity (Saurenko, 2012, p.10). In this regard, the private and public interests a priori contradict each other. The private interest implements the principle of rationality. The public interest implements the principles of humanity and solidarity and is logically inconsistent in case the subject both of the private and public interest is a person.

Similar approach was adopted by researchers working in the sphere of environmental law. In particular, Yevstigneev (2017, p.15-16) considers the basis of sustainable development, first of all, in understanding that the economic, environmental, and social purposes and interests of society and individuals should not be opposed but mutually agreed. That is why ensuring the sustainable development objectively requires drastic changes, with the main focus on greening human's main activities, including the economic activity inculcating often the special use of natural resources (Yevstigneev, 2017, p.15-16).

In its turn, one of the important forms of ensuring sustainable development and balance of its environmental, economic and social components, according to Yevstigneev (2017, p.15-16), is the legal support of environmental safety in terms of the special use of natural resources. The economic and environmental measures are directly implemented in this sphere. In contrast, the impact on the social component is indirect, as its proper implementation is most often dependent on harmonic interaction of the two first components that finally should provide for the environmentally friendly and favorable living and developing the conditions of a human as a biological and social being (Yevstigneev, 2017, p.15-16).

The above mentioned is embodied in the correlation and interaction of the economic and environmental safety, the integrated components of national security. According to Getman and Anisimova (2017, pp.9-10), environmental safety and environmental protection are considered as the fundamental imperative statements of the current State's environmental policy. Thus, the interests on ensuring both the economic safety of the State and the environment protection should be combined in the course of sustainable development. The priorities of the safety of life and health of the population over the economic benefit should be followed. That is why, today's most critical problem for the world community is the saving of energy and resources in the context of national economy and the environmentally balanced natural resource management law (Getman and Anisimova, 2017, pp.9-10).

Considering the above, it should be stated that today interaction of legal regulation of the economic activity with regard to the necessary environmental protection, natural resources preservation, and environmental safety remain relevant and is on agenda of many State agencies of Ukraine. An example is the Decision of the National Security and Defense Council of Ukraine "On Challenges and Threats to the National Security of Ukraine in the Sphere of Ecology and Priority Measures to Neutralize them" (2021). Considering the high risks for natural ecosystems and public health (that is due to the considerable environmental pollution, unreasonable exploitation of natural and resource potential, insufficient adaptability of sectors of the economy to the negative process of climate changes), the Decision was aimed at implementing a set of activities to overcome the highlighted environmental problems and to eliminate the threat to the national security of Ukraine. In terms of saving the resources, balancing the natural resource management, and protecting the natural ecosystems, the following activities should be pointed out: (1) strengthening the legal responsibility of business entities for illegal minerals production, including well drilling and operation without relevant permits; (2) developing the criteria to assess the risk from the economic activity in the sphere of the forest protection, safety, use, and reproduction, etc. Although the suggested activities are important for certain spheres and types of natural resources management, they do not form the unified legal regulation system and are logically disconnected.

Consequently, the balance of economic, environmental and social interests in the implementation of the sustainable development concept is very important and, at the same time, a complex task due to different areas of business, state and society needs. However, an urgent need in preserving natural resources and favorable environment for the current and next generations, raising awareness about advantages of introducing resource-saving technology into the economic activity will become a unifying factor, providing for both the economic growth and environmental protection.

Environmental and Economic Law in the System of Intersectoral Relations

Currently, the development and transformation of the national legislation of Ukraine is mainly conducted within the ongoing globalization and European integration processes. Hence, it requires the constant update to overcome contradictions and gaps, timely and adequate response to the modern socio-economic problems and challenges. Therefore, legal integration or convergence of some branches of law is required in order to form a new common world system of norms, aimed at ensuring the global interstate interaction in different spheres of social life (Getman, 2015). The development of traditional branches of law and areas of scientific research brings up a question on the content as well as structural and systemic relations of these branches of law (Getman and Zuyev, 2016, pp.106 & 116). Such relations are observed within the implementation of so-called principle of intersectoral partnership and strengthening the role of environmental management in the State's management system to achieve three components of development: economic, environmental, and social. This combination and the mutual agreement provide for ensuring the priorities of sustainable development. Thus, it is possible to find the common cross points of the environmental law with the civil, economic, and other laws and, correspondingly, to study the legal problems of the public and private partnership within the environmental protection. As a result, the peculiarities of formation of the agreement-based environmental law, legal regulation of the environmental insurance, audit, etc. must be considered (Krasnova, 2015, p. 47).

At the same time, theoretical research conducted by scientific experts shape the approaches to solving scientific and industry-specific problems, sometimes following one-sided approach, trying to fit, for example, the ecological relations into the system of other branches of law - administrative, civil or economic law. Thus, Dzhumaheldieva (2014) states that the formation of the natural resource legislation occurred in the absence of the Economic Code of Ukraine and economic law, which allowed to consider it as self-consistent and independent, to some extent. The situation changed with the adoption of the Economic Code of Ukraine, by which a prospect of incorporating a number of the natural resource norms into the economic legislation, particularly those containing the regulation of the use of natural resources in the economic activity, was introduced (Dzhumaheldieva, 2014). It is also pointed out that "one of the main areas for reviewing the existing paradigm of further development of law is greening of legislation on economic use of natural resources, that should be implemented not in the framework of the existing resource approach based on the disintegration of legal norms by their provision in special codes (Land, Water, Forestry Code, etc.) or integration in the particular encoded acts mainly oriented towards the nature management, but cohesively based on the unified principles and approaches provided for in the Economic Code of Ukraine" (Dzhumaheldieva, 2014). However, such an approach is doubtful as it ignores the provisions of the Economic Code, P. 1 of Art. 4, stating that the land, mining, forestry, water resources, use and protection of plants and animals as well as territories and facilities of the natural reserves, and atmospheric air are the subject matter of this Code.

Environmental and natural resource norms must be integrated in the economic legislation in the form of environmental requirements and requirements for rational natural resource management in the course of economic activity that uses natural resources. Today, Chapter 15 of the Economic Code of Ukraine (Art. 148-153)⁴ is devoted to the legal regulation of the use of natural resources in economic management. In particular, these norms evidence the attempt to separate the peculiarities of legal procedure of natural resources' use in the economic management; regulate the use of natural resources directly by the business entities; delineate the peculiarities of the procedures of the use of natural resources both under the right of ownership and under the right of use; fix the rights and obligations of business entities regarding the use of natural resources. It can be concluded that the natural resource management is a factor combining the

⁴ Economic Code of Ukraine No. 436 (2003). Available online at: <https://zakon.rada.gov.ua/laws/show/436-15/conv#n1118> [Accessed on 30 August 2021].

branches of the environmental and economic law. However, the social significance, and thus, the mandatory nature of the norms that regulate the economic natural resource management differ in these branches of law.

It is obvious and logical that the Economic Code of Ukraine regulates the economic relations related to organization and implementation of economic activity between business entities, as well as between these entities and other participants of economic relations. Meanwhile, the influence of the economic legal regulation on environmental legal relations is considered as indirect. However, one should agree with the position of Getman and Zuyev (2016, pp. 106, & 116) that when the regulation basis of the business entity and its activity is out of touch with the purpose of the legal regulation, the value and worldview component of the legal regulation is lost, which negatively impacts on its quality (Getman and Zuyev, 2016, pp. 106 & 116).

The above-mentioned evidence witnesses that despite the stability of the subjects of environmental and economic law, their intersectoral and interdisciplinary relationships and connections are still the object of scientific discourse. Thus, the main cross points of the mentioned branches of law regarding the subject matter, methods and means of legal regulation of social relations, their subject-object composition should be considered. The subject matter of the environmental law is the relations between the subjects regarding the possession, use, and restoration (reproduction) of natural resources, natural objects and complexes, environmental protection and environmental safety, and, in certain cases, protection of people and environment from harmful impact. According to the Law of Ukraine "On Environmental Protection" (Art. 1), the objectives of the environmental legislation provide for the legal regulation of the mentioned relations, as well as prevention and elimination of the negative impact of the economic and other activities on the environment, preservation of natural resources, genetical fund of the wildlife, landscapes and other natural complexes.

As mentioned above, the economic legislation and law regulate the public economic relations arising in the course of organization and implementation of economic activity between the business entities and other participants of the economic relations. According to Art. 3 of the Economic Code of Ukraine, the economic activity is the activity of business entities in the sphere of social production aimed at goods production and sales, works performance, or services provided in value terms and with the determined price. The economic activity can be performed both for achieving economic and social results and for receiving the profit (entrepreneurial activity) and without such purpose (non-commercial economic activity).

In the environmental sphere, especially in terms of natural resource management, there are lots of elements related to the economic activity, in particular: a) some kinds of the special use of natural resources (for instance, wood production, secondary timber production, hunting, industrial fishing, water abstraction from water bodies using engineering facilities or devices, etc.); b) economic management in the use of natural resources (forestry, water, hunting, fish-farming, aquaculture, etc.); c) economic activity based on the use of useful qualities of the natural environment (activity in the sphere of recreational, tourist, health and other services to the population).

Each of the mentioned elements, though having the features of economic activity, is subject to the peculiarities and requirements of environmental law considering the natural, economic conditions and intended use of the natural resources. Thus, for example, the organization of forestry stipulates division of forests into categories, separating specially protected forest areas; forest management procedure; maintenance of the state forest cadaster, forest recording and monitoring; forest restoration and other organizational and engineering activities aimed at forest safety and protection from harmful man-made impact and depletion. In turn, main objectives of water management are: meeting the needs of the population and industries in the required amount of water and its quality; ensuring regulation, restoration, and protection of water resources; control over rational use of water resources; introduction of measures to prevent harmful action of waters, etc.

Furthermore, the most common group of social relations arising in the economic sphere are, among others, the relations concerning the use of natural resources. Thus, in the course of the agricultural activity, for example, the land (as the main means of agricultural production), water and forest resources, biological organisms, natural plant resources, etc. are used; in the energy sphere and related economic activity, the energy resources (wind, sun, water energy, etc.), mineral resources (oil, gas, coal, etc.) are consumed.

It should be noted that environmentally-oriented entrepreneurial activity is actively developing. In particular, among such items are collection, sorting, processing and disposal of industrial and domestic waste; manufacture of the equipment for controlling environment pollution and cleaning atmospheric air, water, and other natural resources; development and use of biotechnology, production of organic food products and household items, etc. Consequently, several groups of environmentally friendly entrepreneurship can be outlined: 1) entrepreneurship to ensure nature management effect as a side effect; 2) environmentally friendly production; 3) energy generation and conservation; 4) expert, consulting technology, environmental services (Bobkova, 2013).

In this case, one can observe some kind of a merger of economic (profit, economic growth) and ecological (environmental protection, resource conservation) interests, the regulation of which should lead to a certain social effect (employment, maintaining public health, improving the living standards). The scientific literature also provides with examples when interests of different levels are combined into one kind of economic activity within the natural resource management. Thus, the use of water resources by water supply companies is aimed at meeting the needs of population and economic entities of the territory (drinking or industrial). This common goal includes the individual interests of water supply companies (in the form of profit from the supply of water resources), subscribers (obtaining sufficient water to meet personal needs and use in economic activities), local governments (ensuring the effective life support system in the jurisdiction), the State (ensuring the decent living conditions for the population) (Dzhumaheldieva, 2014). It should be noted that implementation of these interests is possible only within the framework of the public interest, which at the same time limits the degree of satisfaction of individual interests of its subjects.

The analyses of the environmental and economic legislation help identify the basic principles, according to which the legal regulation of natural resources use in the economic activities is carried out. Thus, the Law of Ukraine "On Environmental Protection"⁵ (Art. 40) provides for mandatory environmental requirements for the use of natural resources by citizens, enterprises, institutions and organizations. These requirements include a) rational and efficient use of natural resources based on the extensive application of new technologies; b) implementation of measures to prevent damage, pollution, depletion of natural resources and other negative environmental impacts; c) implementation of measures to reproduce the renewable natural resources; d) application of biological, chemical and other methods for improving the quality of natural resources that ensure the environment protection and public health; e) preservation of territories and objects of the nature reserve fund, as well as other especially protected territories; f) carrying out the economic and other activities without violating the environmental rights of other persons; g) implementation of measures for conservation and inexhaustible use of biological diversity in the course of activities related to the genetically modified organisms.

The environmental legislation also provides for requirements and measures to ensure environmental safety in the course of economic activities. In particular, the subjects of such activities must comply with the environmental protection requirements and ensure the safety of people: 1) during the arrangement, design, construction, reconstruction, commissioning and operation of enterprises, buildings and other facilities (projects of economic and other activities must have the environmental and human health impact assessment

⁵ Law of Ukraine "On Environmental Protection" 1991. Parliament of Ukraine. Available online at: <https://zakon.rada.gov.ua/laws/show/1264-12#Text> [Accessed on 30 August 2021].

materials); 2) when using plant protection agents, mineral fertilizers, oil and oil products, toxic chemicals and other products; 3) protection against uncontrolled and harmful biological impact; 4) against acoustic, electromagnetic, ionizing and other harmful impacts of physical factors and radioactive contamination; 5) against waste pollution; 6) when using vehicles and other mobile means and installations; 7) in the course of scientific research, implementation of discoveries, inventions, application of new equipment, imported machinery, technologies and systems, etc.

Notably, the Economic Code is more restrained in terms of environmental regulation of economic activity. Thus, Art. 6 states that one of the key principles of economic management⁶ is a limitation of the State control and regulation of economic processes in order to ensure the socially oriented economy, fair competition in the entrepreneurship, environmental protection, consumer protection, social and state security. The most powerful “environmental” center of economic and legal norms is the obligations of business entities enshrined in Art. 153 of the Economic Code. These obligations include the use of natural resources according to their purpose; effective and efficient use of natural resources based on the application of new technology in production; taking measures for timely reproduction and prevention of damage, contamination, pollution and depletion of natural resources in the course of economic activity; timely payments for the use of natural resources; conducting economic activity without violating the rights of other owners and users of natural resources; compensating for losses caused to the owners or primary users of natural resources.

The important aspect of analyzing the nature of environmental and economic law convergence is understanding the application of certain legal means for regulating environmental and economic social relations. Such means can be presented as separate functions of environmental and economic management or as special methods of legal regulation. Thus, among the means enshrined in the environmental legislation, which are simultaneously used as means of regulatory influence in the sphere of economic activity, the following can be determined: agreement-based natural resource management; planned approach; normative assessment of natural resources; licensing of some kinds of activities that impact the environment; environmental impact assessment of economic activity; regulation of emissions and limitation of the use of natural resources; economic incentives for businesses that use resource-saving and environmentally friendly technologies, etc.

In turn, the common actors of environmental and economic law, are represented by business entities that use natural resources for various purposes, such as production, economic, business, including those that meet social needs. According to Art. 55 of the Economic Code⁷, the business entities are the participants of economic relations that perform the economic activity by exercising the economic competence (a set of economic rights and obligations), possess separate property and bear responsibility under their liabilities on such property, except as otherwise provided by the legislation. Natural resource users can be either individuals or legal entities. Their activities can be related to the use of natural resources directly (as the main means of production and their useful properties, e.g., agricultural enterprises, farms, individual farming, fisheries, forestry, water management enterprises, etc.), or indirectly, by providing or accompanying the main economic activity, e.g., land developers; chemical, oil refining, machine-building and other enterprises, which in the course of their activity make emissions into the atmosphere or discharges of pollutants into water bodies, etc.).

⁶ Economic Code of Ukraine No. 436 (2003). Available online at: <https://zakon.rada.gov.ua/laws/show/436-15/conv#n1118> [Accessed on 30 August 2021].

⁷ Economic Code of Ukraine No. 436 (2003). Available online at: <https://zakon.rada.gov.ua/laws/show/436-15/conv#n1118> [Accessed on 30 August 2021].

Despite the diversity of business entities that use natural resources or have an ecological impact, they all have certain rights and responsibilities, which are determined, among others, by the environmental legal requirements. Additionally, business entities can use natural resources both under the right of ownership and under the right of use. In other words, business entities, in addition to the economic capacity, must also have the natural resource capacity (ability to have natural resource rights and assume natural resource responsibilities) and legal capacity (ability to acquire natural resource rights by their actions and independently perform the respective duties), i.e., to have natural resource legal personality (Anonymous (2018).

Particular attention should be paid to the objects of the environmental law that can be used in economic activities. In accordance with the Law of Ukraine “On Environmental Protection” (Art. 5), the state protection and regulation on the territory of Ukraine shall cover the following: environment as a set of natural and natural-social conditions and processes; natural resources (both involved in the economic circulation and timely unused), such as land, subsoil, water, air, forest and other flora, fauna, landscapes and other natural complexes. As a result, scholars suggest that all these components are divided into objects of legal protection and objects of legal relations of the environmental law (or objects of legal regulation) (Krasnova, 2013, p.10). In turn, according to the provisions of general theory of law, the object of legal relations is a certain personal or social benefit, for the acquisition and use of which the parties' mutual rights and legal obligations shall be established (Rabinovich, 2001). The objects of legal relations usually satisfy the immediate needs of society and individuals. Accordingly, the objects of legal relations of the environmental law can be the items of property and natural resource management reflecting its natural resource component, which is formed and developed as the natural resource law. As stated in the ecological and legal literature, the objects of the natural resource law are naturally complete and relatively separate natural components that exist in interaction with the social environment and perform appropriate functions for a human and the society (Anonymous (2018).

It is noteworthy that the natural resources are at the same time the elements of ecosystem, capable of satisfying certain human needs. Thus, natural resources in the quality of objects of legal regulation are considered as sources of consumption, which traditionally form the basis of the modern market economy and economic management. Being of a natural origin, in relation to the natural environment, and performing life support functions, natural resources may be in civil circulation or in economic management on certain legal titles (property rights or rights of use). Thus, they may be subject to certain legally significant actions (purchase/sale, pledge, exchange, gift, etc.).

Krasnova (2013, p.10) distinguishes two groups of natural resources, depending on their functions: a) natural resources as tangible values are the parts of the nature or natural objects that are involved in the economic circulation and that, due to their peculiar features, can be used by a human, society and the state for satisfying multiple needs; b) natural resources as intangible values are the natural objects involved in the economic circulation and included into the ecological systems as necessary components, which are of particular significance for satisfying the individual and social needs by fulfilling ecological, healthcare, recreational, scientific and cognitive, aesthetic and other functions (Krasnova, 2013, p.10). Characteristics of natural resources depending on their inclusion in the economic circulation or exclusion from the latter for special protection within specially designated areas make it possible to identify the natural resource component and environmental component of the environmental law.

It should be noted that the basic natural resources play an extremely important role in economic management, primarily due to their versatility. For instance, the land combines many other natural components, main means of agricultural production, the local basis for human life, location of the objects, and economic management. Water (water bodies) is used as the natural resource to meet drinking and household needs of the population, to provide the centralized and decentralized water supply, to ensure water transport, and to provide energy. The natural resource having medicinal and health properties are used

for recreational, tourist, and health activities. The reservoirs are used for discharge of wastewater produced during the process of industrial and other activities. The ecological and legal literature has repeatedly emphasized the multifaceted functions of natural objects and its resources. Thus, O.V. Rohovenko (2012), in his research on the legal nature of the coastal area of seas, concludes that it is a complex object of legal regulation, namely: a) the object of landscape law; b) the natural resource; c) the zone for recreational and medical and health-improving activities; d) the area for economic activity. The scholar emphasizes that the dialectical combination of these features of this natural object with the reproduction of the basic principles of legal regulation will contribute to a clear definition of its legal regime through the prism of regulation of economic activity (Rohovenko, 2012). This phenomenon of natural resources is pointed out by many other researchers belonging to the fields of both the environmental and economic law (Bobkova, 2000; Kononov, 2013).

Thus, the environmental and economic law have much in common in regulating social relations guiding the use of natural resources. However, the approaches and ways of legal influence on the activities of the relevant entities in these areas are different.

Environmental Management as a Factor of Convergence of the Environmental and Economic Law

Nowadays the economic activity of mankind makes a lion's share of the today's environmental problems. Many scientific works have been devoted to this issue on a larger scale, and it makes no sense to repeat axiomatic things. However, there are fewer works on determining specific steps towards the reformation and modification of the mentioned economic mechanisms. Generally, it should be assumed that the model of environmentally responsible management can be implemented by a complete paradigm shift in the organization of economic life. Today the environmentally friendly management is in question, as the problem is not only to neutralize the pollution but also to eliminate those destructive changes in the environment that have already accumulated and acquired their negative dynamics.

The first stage of such modification seems to begin with developing the constitutional and legal grounds for tackling the ecological crisis as the main problem of socio-economic life. The current norms of Constitution of Ukraine are extremely insufficient to determine the powerful substantive impact on the nature and direction of the current environmental, and economic legislation. Thus, the recognition of the priorities of sustainable economic development, green economy, and environmental management is primarily demanded. Apparently, systematization of the constitutional and legal norms, which is reasonable to be implemented in a separate section of the Constitution - "Environmental System". Similarly, the creation of the section "Economic System" is required. The mentioned structural systematization in the Constitution of Ukraine would allow for in-depth correlation and meaningful convergence of the norms of both sections.

The second stage assumes the creation and implementation of interconnected environmental and economic policy of the State. Nowadays, economic policy and environmental policy of Ukraine are developed separately, and mostly do not correlate with each other. Ineffectiveness of such approach is caused by involving different State authorities, different scientific and doctrinal support, different legal documents (Concepts, Strategies, State Programs, etc.) and, ultimately, different branches of law. Consequently, the inevitable combination of ecological and economic public interests as well as the creation of economic and ecological symbiosis is required. Meanwhile, it can be only achieved by a common State and legal mechanism for the formation of environmental and economic policy.

It should be pointed out that the current legal documents containing the provisions of the State environmental policy of Ukraine also cover some economic topics and aspects. At the same time, self-consistency of economic program documents, particularly in the areas of construction, transport, and investment leads to actual negligence of their environmental component. This problem can be solved by

introducing a hardware segment into the state executive system that would be competently burdened with the promotion and development of the “green economy” as a complex category with ensuring its dominance in the structure of the national economy.

At the third stage of developing political and legal support for convergence of the ecological and economic issues, the question of symbiosis of the environmental and economic legislation should be raised. It is important that, in this context, the term ‘economic legislation’ is interpreted in a broad sense, including certain issues of the agrarian and financial law. Thus, a question about the effective organization of the law-making process and the appropriate organization of the scientific and expert activities arises. After all, the barriers exist between the environmental, economic or other branches of law and legislation, which are separated by a relatively strict criterion of subjects and methods of regulation, and between the teams of specialists and scientists.

At the same time, legal regulation of economic activity or agricultural production activity in the framework of strict requirements of the modern environmental law requires the introduction of a number of the agreed legal remedies, principles of economic management, definitions, objects of legal regulation, relevant range of business entities and, most importantly, comprehensive intersectoral mechanisms of organizational and economic influence of the State on the activities of the entities that can be both restrictive and stimulating, supportive.

However, a set of the following questions arise. Can ‘decarbonization’ become a principle of economic management? What is the ‘greening’ of economic management? Which qualification criteria can determine such concepts as ‘environmental management’, ‘environmental innovations’, etc.? Obviously, the process of converging environmental and economic legislation preliminarily requires certain ‘rapprochement’, collaboration of the environmental law and economic law, as well as determination of complex objects of scientific research and regulation.

It should be noted that the concept of sustainable development within the green economy involves the formation of an extremely complex hybrid model of economic activity. Thus, environmental factors, such as climate change, ecological imbalances, lack of vital resources, etc., determine each other and require own systematization and modelling of current and future development options. However, in case of environmental issues, the threats are understood, and possible means to neutralize and overcome them are identified. The expenditure part can also be calculated and correlated with the budgetary and extra-budgetary resources of the State. On the other hand, the correlation of the relevant environmental imperatives with the functioning market mechanisms of self-regulation in the conditions of the international economic competition makes it difficult to determine the value of transforming the traditional economy into the framework of environmental management.

Therefore, a sufficiently wide range of legal remedies prioritizing the greening of economy should be introduced. This shall be done with the help of environmental management that provides for the existence of many special legal regimes targeted to achieve the prognosed ecological impact in the course of economic activity. It is obvious that the concept of ecological impact has evolved within environmental legal framework and, as a result, has a narrowly specific use. However, its implementation into the framework of economic and legal regulation is more than reasonable. In turn, to become a real legal instrument, the concept of ‘ecological impact’ must be classified and qualified by the lawmaker. In fact, the development of special legal regime for green economy and greening processes of economic activity is required. In turn, ecological impact can be considered as the subject of the business entity (particularly in the field of waste management), and a side effect of using innovative approach or equipment for producing traditional goods and services. Additionally, the ecological impact can be present even when the production activity improves the state of the environment, restoring it to the parameters that existed before mass pollution (or

environmental destruction). For instance, the innovative developments for extracting CO₂ from the atmosphere are undoubtedly one of the most desirable kinds of ecological impact.

A similar complexity is observed while identifying and qualifying different types of environmental management. Thus, on the one hand, environmental management provides several requirements for organizational and legal forms of business entities. For instance, environmental management can be carried out on the basis of commercial and non-commercial economic management, the scope of legal personality and license conditions can differ. On the other hand, the effectiveness of legal means for organizational and economic influence of the State on such economic activity is in question. Noteworthy, it is the State that should create preconditions for economic efficiency. Meanwhile, a combination of incentives should ensure the level of innovative renewal of the business entity's assets and its environmentally oriented activities should reach a competitive level over time. For example, "green tariff" should not be a matter of lifelong fixation, which is only good for the owner of alternative energy sources. Instead, modification of the tariff level over time should be introduced, in order to encourage the "alternative" operators to increase efficiency and take over the owners of traditional energy-generating companies.

The current legislation of Ukraine contains a number of laws that create preconditions for stimulating economic activity to transform to environmental management through various legal regimes. First of all, it is the Law of Ukraine "On the State Support of Business Entities"⁸, "On Public-Private Partnership"⁹. An important basis is also made up by the norms of the Economic Code of Ukraine, which determines the types of special economic management regimes.

The objects of special legal regimes may be environmental innovations, their introduction into the production process, the sale of innovative products, and a list of actual activities, where the State determines the most powerful socio-economic relevance. This refers to the question's value in the context of global warming and transition to sustainable agriculture. The creation of appropriate plant varieties, seed production and sustainable agricultural activities for their use requires the State support. Again, it is important to emphasize that this is not synonymous with the subsidized non-viability of the relevant economic activity. The goal of the lawmaker is to adapt agricultural activities to new climatic conditions, but with a new sought level of profitability. The environmental management in the field of waste management accumulated in landfills and greening activities also require a special management regime in Ukraine.

However, it is undoubtful that such traditional environmental pollution sources as energy, metallurgy, chemical industry, transport, construction, etc. require "greening". It is supposed that to stimulate large business in these spheres, it would be possible to use the potential of the public-private partnership to implement the environmentally oriented innovative development projects. Due to the high level of economic concentration, the large business organizations are unique, which means that using the general special regime may be unnecessary.

The use of legal forms of the public-private partnership, which would individualize the relationship between the State and the business entity in terms of introducing environmental innovations, could be quite effective. However, only provided that transparency and public control are ensured.

⁸ Law of Ukraine "On the State Support of Business Entities. 2014". Parliament of Ukraine. Available online at: <https://zakon.rada.gov.ua/laws/show/1555-18#Text> [Accessed on 7 September 2021].

⁹ Law of Ukraine "On Public-Private Partnership 2010". Parliament of Ukraine. Available online at: <https://zakon.rada.gov.ua/laws/show/2404-17#Text> [Accessed on 7 September 2021].

Conclusions

Therefore, in the context of the exacerbated ecological crisis, which has all the features of ecological catastrophe, any activity to satisfy economic interests, economic policy, development of economic legislation, as well as public administration and regulation in the economic sphere can only take place within the requirements of environmental protection. In turn, public relations, which arise in the course of achieving sustainable development, are regulated by many branches of law. In particular, they are transformed through the integrated connection of the environmental, land, agricultural, civil and economic law. According to the current national legislation of Ukraine, environmental legal relations are based either on various forms of ownership or the right to use natural resources, and arise in the process of a) use and reproduction of natural resources; b) providing for environmental protection; c) ensuring environmental safety.

Given the need to combine the economic, ecological and social interests of mankind to achieve sustainable development, as evidenced by many international documents and principles, the convergence of the norms of environmental and economic law and their harmonization are important to achieve this goal. The priority role should be played by the State environmental policy, which in current conditions is considered an integrated factor of socio-economic development of Ukraine and, thus, should ensure the transition to sustainable development of the national economy and ecologically balanced system of natural resource management.

In terms of ongoing development of market economy and intensification of internationalization processes of economic life, the main task of economic law is to ensure systemic legal support for effective and balanced functioning of economic turnover in order to establish and maintain the public economic order, which should be ensured both through the public and private legal principles. The mentioned processes often occur within the use of natural resources for economic purposes, extraction of natural resources from the natural environment to receive profit, or deterioration of natural resources' quality in the process of their commercial use that leads to negative environmental impacts. Therefore, it is necessary to strengthen the rules of economic legislation with the environmental requirements for such activities. In this case, the proposals of some scientists on the greening of economic legislation should be supported (Dzhumaheldieva, 2014).

Thus, the main objective of the environmental law strives, on the one hand, to ensure environmental protection, restoration and conservation of natural resources, and on the other hand, to promote legal regulation of their use, including the economic sphere. In turn, the rational use of natural resources, their conservation, reproduction and comprehensive protection is the most important prerequisite for sustainable development. Undoubtedly, sustainable development requires ensuring the environmental safety for the current and future generations, maintenance of the environmental balance, and, consequently, clean and healthy environment. In this context, it is worth recollecting the message to environmental lawyers by O.S. Kolbasov (2000), who stated that the property wealth and favorable natural environment should balance each other in the system of human values, and it is the environmental law that must become a counterweight to all the legal spheres.

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Authors' Declarations and Essential Ethical Compliances

Authors' Contributions (in accordance with ICMJE criteria for authorship)

Contribution	Author 1	Author 2
Conceived and designed the research or analysis	Yes	Yes
Collected the data	Yes	Yes
Contributed to data analysis & interpretation	Yes	Yes
Wrote the article/paper	Yes	Yes
Critical revision of the article/paper	Yes	Yes
Editing of the article/paper	Yes	Yes
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